

NATURE OF CHARGE: Adulteration, Section 501 (c), the quality of the article fell below that which it purported and was represented to possess.

Misbranding, Section 502 (a), the statement "Prophylactics" on the label of the article in the Atlanta lot was false and misleading as applied to an article containing holes.

DISPOSITION: March 10 and May 13, 1948. Default decree of condemnation and destruction.

2415. Adulteration and misbranding of prophylactics. U. S. v. 48 Gross * * *. (F. D. C. No. 24372. Sample No. 442-K.)

LIBEL FILED: March 11, 1948, Western District of North Carolina.

ALLEGED SHIPMENT: On or about January 29, 1948, by W. H. Reed & Co., Inc., from Atlanta, Ga.

PRODUCT: 48 gross of *prophylactics* at Shelby, N. C. Examination of samples showed that 5 percent were defective in that they contained holes.

LABEL, IN PART: "P A N Tested Prophylactics."

NATURE OF CHARGE: Adulteration, Section 501 (c), the quality of the article fell below that which it purported and was represented to possess.

Misbranding, Section 502 (a), the label statement "Tested Prophylactics" was false and misleading as applied to an article containing holes.

DISPOSITION: May 17, 1948. W. H. Reed & Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation and conversion of the unfit portion into scrap rubber, under the supervision of the Federal Security Agency. The product was found unmarketable and was converted into scrap rubber and burned.

2416. Adulteration and misbranding of clinical thermometers. U. S. v. 16 Dozen * * *. (F. D. C. No. 24375. Sample No. 32384-K.)

LIBEL FILED: March 11, 1948, Northern District of California.

ALLEGED SHIPMENT: On or about January 30, 1948, by the Philbern Thermometer Co., from New York, N. Y.

PRODUCT: 16 dozen envelopes each containing 1 *clinical thermometer* at San Francisco, Calif. Examination of 24 thermometers showed that 11 would not give accurate readings.

NATURE OF CHARGE: Adulteration, Section 501 (c), the quality of the article fell below that which it purported and was represented to possess, since it would not give accurate readings.

Misbranding, Section 502 (a), the following label statements were false and misleading as applied to an article that would not give accurate readings: "This certifies that this thermometer has been tested on this date at 96°, 100°, 104° and 106° Fahrenheit scale or its equivalent in Centigrade scale, and is correct within plus or minus 2/10 at any of these points. This test is governed by a standard thermometer which has been tested and approved by the Bureau of Standards, Washington, D. C. This thermometer is guaranteed to be of absolute accuracy." Further misbranding, Section 502 (b) (1), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor.

DISPOSITION: September 21, 1948. Default decree of condemnation and destruction.

DRUGS AND DEVICES ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS

DRUGS FOR HUMAN USE*

2417. Action to enjoin and restrain the interstate shipment of Dr. Hartman's Modified Diabetic Treatment. U. S. v. Dr. Perry Vernon Hartman, Sr. (Hartman Diabetic Hospital). Consent decree granting injunction. (Inj. No. 184.)

COMPLAINT FILED: May 26, 1948, Southern District of Illinois, against Dr. Perry Vernon Hartman, Sr., trading as Hartman Diabetic Hospital at Granville, Ill.

NATURE OF CHARGE: That the defendant had been and was causing to be introduced and delivered for introduction into interstate commerce at Spring Valley,

*See also Nos. 2401, 2403, 2404, 2407, 2410, 2412, 2414-2416.

Ill., and other places within the jurisdiction of the court, an article of drug which he manufactured and packed, and which consisted of a bottle of liquid prepared from vinegar, potassium nitrate, and alcohol, and a package of tablets containing pepsin and pancreatin. The bottle of liquid was labeled "The Hartman Diabetic Hospital Granville, Illinois P. V. Hartman, Sr., M. D. Reg. No. 1778 -----, 194-- For ----- Address ----- Dr. Hartman's Modified Diabetic Treatment —Always Shake Well— Take one tablespoon full in $\frac{1}{2}$ glass of water, add juice of $\frac{1}{2}$ orange and sip with your meals. Be sure to take three tablets before each meal. Avoid sugars and starches. Walk twice every day, two or three miles if possible." The package of tablets was labeled "The Hartman Clinic Granville Illinois * * * Directions: Take three tablets with each meal." A booklet entitled "A Brochure on Diabetes," and containing a discussion of the cause of diabetes and an outline of the method of treatment by Dr. Perry Vernon Hartman, Sr., accompanied the article of drug as labeling. The article of drug was charged to be misbranded under Section 502 (a), in that the statements in its labeling which represented and suggested that it would be efficacious in the cure, mitigation, and treatment of diabetes, were false and misleading since it would not be efficacious for such purposes.

PRAYER OF COMPLAINT: That the defendant be restrained and enjoined during the pendency of the action, and permanently, from commission of the acts complained of.

DISPOSITION: May 26, 1948. The defendant having admitted the facts charged in the complaint, and having consented to the entry of a decree, the court entered an order enjoining the defendant from directly or indirectly introducing or delivering for introduction into interstate commerce, in violation of Section 301 (a) of the Act, the article of drug or any like or similar preparation similarly labeled and misbranded. It was ordered also that at the request of an officer or employee designated by the Federal Security Administrator, the defendant should permit such officer or employee at reasonable times to have access to, and to copy all records showing the movement in interstate commerce of, the article of drug or any similar preparation, and the quantity, the shipper, and the consignee thereof.

2418. Misbranding of Lin-A-Cea. U. S. v. Parke D. Brollier (Park-Lee Products Co.). Plea of nolo contendere. Fine, \$300 and costs. (F. D. C. No. 23242. Sample No. 38406-H.)

INDICTMENT RETURNED: February 16, 1948, Northern District of Ohio, against Parke D. Brollier, trading as Park-Lee Products Co., Lorain, Ohio.

ALLEGED SHIPMENT: Or or about August 22, 1946, from the State of Ohio into the State of Michigan.

PRODUCT: Examination showed that the product was ground, roasted flaxseed.

NATURE OF CHARGE: Misbranding, Section 502 (a), the label statements, "due to the high percentage of Linoleic, Linolenic Acids, one or two heaping teaspoonfuls three or four times a day is usually sufficient. * * * The important Amino Acids Cystine Methionine Arginine Histidine Lysine Tyrosine Tryptophane Phenylalanine Threonine Leucine Valine Iso-leucine * * * The Amino, Linoleic, Linolenic Acids are Nutritionally Essential," and certain statements appearing in a circular entitled "Lin-A-Cea," which was enclosed in the package containing the article, were false and misleading. These statements represented and suggested that the amino acid and linoleic and linolenic acids content of the article was significantly different from that found in the ordinary diet; that the article would furnish nutritional elements which are not readily supplied by the ordinary diet; that the amino acids and linoleic acids are usually lacking in the ordinary diet; and that the article would be efficacious in the cure, mitigation, and treatment of fatigue, indigestion, high blood pressure, asthma, sinus trouble, painful movement of the joints, eczema, and lack of resistance to disease. The amino acid and linoleic and linolenic acids content of the article was not significantly different from that found in the ordinary diet; the article would furnish no nutritional elements which are not readily supplied by the ordinary diet; the amino acids and linoleic and linolenic acids are not usually lacking in the ordinary diet; and the article would not be efficacious in the cure, mitigation, and treatment of the above-mentioned disease conditions.